



## Town Council Agenda Report

**SUBJECT:** Resolution

**TITLE OF AGENDA ITEM:**

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN TO RETAIN THE LEGAL SERVICES OF BURKE, WEAVER & PRELL, IN CONNECTION WITH AMENDMENTS TO THE COMPREHENSIVE PLAN AND CODE REGARDING GROUP HOMES AND OTHER RELATED FACILITIES.

**REPORT IN BRIEF:**

Town Attorney has suggested that special legal counsel be retained in connection with amendments to the Comprehensive Plan and Code regarding group homes and other related facilities.

**DISCUSSION:**

The law firm of Burke, Weaver & Prell is qualified to assist the Town in specialized land use issues regarding group homes and other related facilities.

**CONCURRENCES:**

The Town Attorney has recommended the law firm of Burke, Weaver & Prell be retained.

**FISCAL IMPACT:**

\$125 - \$175 per hour

**RECOMMENDATION(S):**

Motion to approve the resolution to retain the law firm of Burke, Weaver & Prell as special counsel in connection with amendments to the Comprehensive Plan and Code regarding group homes and other related facilities.

**Attachment(s):**

Resolution

Memorandum from Town Attorney, Barry Webber dated August 24th, 1999

Letter from Burke, Weaver & Prell dated August 23rd, 1999

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,  
AUTHORIZING THE TOWN TO RETAIN THE LEGAL SERVICES  
OF BURKE, WEAVER & PRELL, IN CONNECTION WITH  
AMENDMENTS TO THE COMPREHENSIVE PLAN AND CODE  
REGARDING GROUP HOMES AND OTHER RELATED  
FACILITIES.

WHEREAS, the Town is in need of special counsel with regard to amendments  
the Comprehensive Plan and Town Code regarding group homes and other related facilities  
and

WHEREAS, the Town wishes to retain the legal services of special counsel, Burke,  
Weaver & Prell with regard to the above subject amendments; and

WHEREAS, the fee to be charged by Burke, Weaver & Prell, as special counsel is  
forth in the attached Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF  
DAVIE, FLORIDA:

SECTION 1. The Town Council hereby authorizes the Town to retain the legal  
services of Burke, Weaver & Prell with regard to amendments to the Comprehensive Plan  
and Town Code regarding group homes and other related facilities.

SECTION 2. This resolution shall take effect immediately upon its passage and  
adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1999.

LAW OFFICES OF

## BURKE, WEAVER & PRELL

ONE LINCOLN PLACE

1900 GLADES ROAD

SUITE 350

BOCA RATON, FLORIDA 33431

TELEPHONE: 561-391-0400

TELECOPIER: 561-392-9228

55 WEST MONROE STREET, SUITE 800

CHICAGO, ILLINOIS 60603

TELEPHONE: 312-263-3600

TELECOPIER: 312-578-6666

nes@boca.burke-weaver-prell.com

August 23, 1999

BARBARA A. ADAMS  
KAREN M. BORG  
NICHOLAS J. BUA  
JOHN E. BURKE  
MARK E. BURKLAND  
MICHAEL J. CLARIZZO  
MAUREEN A. CROWLEY<sup>1</sup>  
WILLIAM F. DEYDUNG  
MARTIN G. DURKIN, JR.  
STEVEN M. ELROD  
VICTOR F. FILIPPINI, JR.<sup>1</sup>  
PETER M. FRIEDMAN  
MATTHEW J. HUGHES  
CHARLES E. JOERN, JR.  
MICHAEL J. KANUTE  
LORETTO M. KENNEDY  
CHARLES D. KNIGHT  
JERRY KOKOLIS  
CLAUDIA J. LOVELETTE  
MARK A. MEROLLI

JAMES T. MUELLER  
CHRISTOPHER J. MURDOCH  
MARTIN P. MURPHY  
ROBERT C. NEWMAN  
MATTHEW E. NORTON  
SUSAN M. PODER  
JOSEPH F. POKLEMB<sup>2</sup>  
FRANCES E. PRELL<sup>1</sup>  
EDWARD F. RYAN<sup>1</sup>  
JULIE P. SHELTON  
COLIN SMITH<sup>1</sup>  
MARK A. STANG<sup>1</sup>  
NANCY E. STROUD<sup>2</sup>  
JULIE A. TAPPENDORF  
SUSAN L. TREVARTHEN<sup>2</sup>  
ROBERT W. VYVERBERG  
MICHAEL H. WEST  
THOMAS E. WOODROW<sup>1</sup>

<sup>1</sup> ADMITTED ILLINOIS AND FLORIDA  
<sup>2</sup> ADMITTED FLORIDA ONLY

Via Facsimile

Mr. Barry Webber  
Town Attorney  
Town of Davie  
P.O. Box 8549  
Pembroke Pines, Florida 33084

Re: Legal Assistance for Town of Davie Group Homes Legislation

Dear Barry:

Thank you very much for your inquiry about our availability to provide assistance to the Town regarding the Town's effort to prepare and adopt a group homes ordinance. We would be privileged to provide assistance for this matter. As you know, a large part of our practice is focused on just this type of local government land use matter.

We propose that I would be the primary lawyer working for the Town, with research assistance as necessary by Susan Trevarthen or Joseph Poklemba. We will be able to provide assistance in all stages of preparation and presentation for the ordinance.

We offer to provide services at our governmental rates, which are \$175.00 for me, \$145 for Ms. Trevarthen, and \$125 for Mr. Poklemba. We will bill monthly, with detailed invoices describing the work and time of each attorney and the disbursement costs incurred. We do not bill for work of paralegals or other staff. If the Town is agreeable, your signature below will act as our letter of contract.

Mr. Barry Webber  
August 23, 1999  
Page Two

I have enclosed resumes for our firm and the individuals who might be involved.  
If you have any questions, please do not hesitate to call.

Very truly yours,

*Nancy E. Stroud*

Nancy E. Stroud

NES:bh

\_\_\_\_\_  
Mr. Barry Webber  
For the Town of Davie

\_\_\_\_\_  
Date

## **BURKE, WEAVER & PRELL**

### **Boca Raton, Florida**

Burke, Weaver & Prell is a law firm of approximately 42 attorneys, dedicated to the highest quality service in a selected group of related specializations, with an attention to cost control not customarily associated with larger firms.

Over the last fifteen years the firm's Boca Raton office has maintained a staff of three to five lawyers plus paralegals, along with a complement of eight attorneys in its Chicago office who are members of the Florida bar and who work actively with the firm's Florida clients. Until January 1994, the firm practiced under the name of Burke, Bosselman & Weaver.

### **AREAS OF PRACTICE**

The firm's primary areas of expertise in Florida are counseling and litigation in the fields of land use, growth management, environmental, governmental and inverse condemnation law.

### **GROWTH MANAGEMENT AND ENVIRONMENTAL LAW**

Attorneys at Burke, Weaver & Prell are nationally recognized experts in matters concerning the development and use of land and related environmental areas. The firm's practice is at the cutting edge of this rapidly developing field. Its attorneys have written numerous books and articles and have lectured to diverse audiences around the country.

Burke, Weaver & Prell has represented public clients in drafting and litigating growth management and zoning matters throughout the state of Florida. The firm has also had considerable experience in assisting clients to interpret, apply, and comply with the complex and changing state and federal environmental statutes. For example, the firm has had responsibility for:

- A rate of growth ordinance for the City of Key West.
- Impact fee ordinances for various public facilities in eight Florida counties and cities.
- Growth management plans and policies for the Northeast Florida Regional Planning Council and the Palm Beach Countywide Planning Council.
- Representation of several large scale land developers for permits under Florida's complex system of land use and environmental regulations.
- Representation of a Fortune 100 company in its efforts to site a project in

compliance with federal and state environmental regulations.

- Representation of a major environmental organization in its efforts to prevent the intensive development of an unbridged, environmentally sensitive coastal barrier island.

#### **LOCAL GOVERNMENT LITIGATION**

Burke, Weaver & Prell's widely recognized expertise in local government matters, coupled with its extensive knowledge of the state and federal court systems, has earned the firm its reputation as one of the country's most respected litigation firms in the highly specialized areas of land use, environmental and governmental law. Examples of the firm's Florida litigation practice in these areas include:

- Representing Palm Beach County in the precedent-setting defense of its road impact fee ordinance.
- Defending Martin County in cases involving the attempted development of over 20,000 acres of freshwater wetlands and rejected text amendments to its award-winning Comprehensive Plan.
- Representing the Town of Jupiter in state and federal court challenges to a corridor overlay zone regulating uses and development standards along its major road.
- Representing Broward County in the defense of its park impact fee ordinance and in the defense of several developer actions attacking its Comprehensive Plan.
- Representing The School Board of Broward County in the establishment of the first school concurrency system in the state of Florida.
- Representing cities and counties in the defense of federal civil rights damages actions concerning building permit matters and changes in land use regulations.
- Representing regional planning councils in administrative and court proceedings regarding developments of regional impact.
- Representing citizens in administrative proceedings challenging the consistency of development regulations and development orders with the local comprehensive plan.
- Representing a dozen local governments in Broward County in the administrative proceedings regarding the siting of a 500 KV electrical transmission line.

### INVERSE CONDEMNATION

Burke, Weaver & Prell attorneys have extensive experience before trial and appellate courts in inverse condemnation litigation. Recent U.S. Supreme Court decisions concerning inverse condemnation and regulatory takings have also resulted in a tremendous increase in the litigation of such issues. The attorneys at Burke, Weaver & Prell have played a major role in the development and resolution of these issues, in Florida and elsewhere. For example, members of the firm were trial and appellate counsel in the precedent setting inverse condemnation case of Graham v. Estuary Properties, Inc., 399 So. 2d 1374 (Fla. 1981), cert. den. 454 U.S. 1083. In addition, the firm's attorneys write and speak regularly on the takings issue.

### CLIENTS

Florida clients in the public sector have included:

Boca Raton Community Redevelopment Agency	Lee County
Broward County	Martin County
Captiva Erosion Prevention District	Orange County
City of Boca Raton	Palm Beach County
City of Destin	The School Board of Broward County
City of Naples	South Florida Water Management District
City of Gainesville	Town of Davie
City of Key West	Town of Jupiter
City of West Palm Beach	Town of Longboat Key
Charlotte County	Town of Palm Beach
Collier County	Treasure Coast Regional Planning Council

## GENERAL LITIGATION

Burke, Weaver & Prell's litigation practice covers all the principal areas of corporate litigation, both civil and criminal, including general commercial, product liability, toxic tort, antitrust, construction contracts, real estate, bankruptcy, (including creditors' rights), employment practices and discrimination, and government regulation, as well as a full range of constitutional and statutory litigation arising out of the firm's land use, environmental and governmental practices. The firm's clients have also called upon the firm for counseling in these areas, particularly in situations where special care is needed to avoid, or to be prepared for, potential litigation.

The scope of Burke, Weaver & Prell's general commercial litigation practice throughout the country is illustrated by the following examples of matters handled by the firm's commercial litigation attorneys:

- Representation of a Fortune 100 corporation charged with violations of Sections 12 and 17 of The Securities Act of 1933 and State blue sky laws in a lawsuit arising out of an acquisition agreement.
- Representation of a manufacturer against an equipment leasing firm in an action for RICO violations, fraud, and other related business torts arising out of a fraudulent scheme to misappropriate funds paid under equipment leases.
- Representation of investors in a real estate limited partnership in a dissolution action against the managing general partner.
- Representation of a lender in a series of lawsuits arising from the termination of a credit facility.
- Representation of secured and unsecured creditors in a variety of breach of contract actions.
- Representation of a Fortune 100 corporation in a series of lawsuits arising when its subsidiary filed bankruptcy soon after being sold to a third party.
- Consultation regarding potential contract, warranty, and consumer fraud claims arising from malfunction and partial non-delivery of a multi-million dollar sales and inventory management software system.
- Representation of antitrust defendants in the paper, industrial gas, and building industries in grand jury investigations, criminal proceedings, and treble damage actions.
- Representation of owners and contractors in a variety of construction disputes both at the negotiation and litigation stages.

**NANCY E. STROUD**

Partner  
Attorney-at-Law

Ms. Stroud's practice with Burke, Weaver & Prell includes land use and environmental law, with a special emphasis on the representation of local government. Ms. Stroud was awarded a master's degree in regional planning and a law degree from the University of North Carolina in 1978. She graduated cum laude with a B.A. in Sociology from Indiana University. She is a member of Phi Beta Kappa, and studied for a year at the London School of Economics. Ms. Stroud has been a member of the Florida Bar since 1979. She has been a partner in the firm since 1986.

Ms. Stroud's experience ranges from broad based representation as general counsel to local government, to litigation on state and federal land use matters, to consultation with local governments in the development of land use regulations. She has special expertise in growth management, local government and civil rights relating to land use decisions, such as regulatory takings. She has defended local government land use decisions and laws in state and federal court, and has also represented private citizens and nonprofit organizations in administrative and court challenges to various state and local land use actions. She also has served as an adjunct professor of growth management law at Florida Atlantic University.

Among her professional service activities, Ms. Stroud is a Board member of the Treasure Coast Regional Planning Council, appointed by Governor Chiles. She is an author of the Florida Bar Land Use and Environmental Law Section manual for practitioners. She serves on the American Planning Association Amicus Curiae Committee and is an executive board member of the APA Planning and Law Division. She has been a featured speaker on land use law topics for a number of professional and lay organizations, including the American Planning Association, the Florida Bar, the Urban Land Institute and the American Law Institute.

Ms. Stroud is a member of the American Bar Association (including the state and local government law section), the Florida Bar Association (including the environmental and land use law section, and city, county and local government law section) and the Palm Beach County Bar. She was awarded the 1996 Palm Beach County Bar Association Pro Bono award for service to the cultural arts.

**SUSAN L. TREVARTHEN, AICP**

Associate  
Attorney-at-Law

Ms. Trevarthen is board certified in the practice of City, County & Local Government Law by the Florida Bar. She practices primarily in the areas of zoning, land use, local comprehensive planning and constitutional law. The major portion of her practice, since joining the firm in 1991, has consisted of local government representation involving these issues. She has represented clients such as the Town of Longboat Key, the City of West Palm Beach, Captiva Erosion Prevention District, the Palm Beach County Countywide Planning Council, Martin County, the School Board of Broward County, and represents the planning staff of the City of Sunrise in the City's quasi-judicial hearings.

Ms. Trevarthen assists in the defense of local governments in state and federal court litigation, frequently handling dispositive motions, and plays a major role in the management and preparation of expert witnesses in disciplines ranging from land economics to comprehensive planning and environmental sciences. She has briefed appeals in many of these cases for Florida District Courts of Appeal, the Florida Supreme Court, the Eleventh Circuit, and petitions for certiorari to the U.S. Supreme Court. She also participates in the firm's representation of private clients in land use and environmental litigation, and public contracts matters.

Ms. Trevarthen's prior professional experience includes applied research in growth management with the Florida Atlantic University/Florida International University Joint Center for Environmental and Urban Problems. At the Center, she gained extensive experience in American Assemblies, a method for group conflict resolution and goal setting, and has completed the Florida State University Conflict Resolution Consortium's training program for Special Masters pursuant to the 1995 Florida Land Use and Environmental Dispute Resolution Act. She has participated in extensive court-ordered mediation in the Eleventh Circuit on behalf of a local government client.

In 1986, she received her Bachelor of Arts degree Cum Laude from Duke University, majoring in public policy studies. She received a doctor of jurisprudence degree and a master of city and regional planning degree from the University of North Carolina at Chapel Hill in 1991. She has been a member of the Florida Bar since 1991.

Ms. Trevarthen is a member of the American Bar Association, the American Institute of Certified Planners and the American Planning Association. For the APA, she provides pro bono representation in a challenge to a California statute exempting religious properties from historic preservation regulation. She has also served as an adjunct professor of environmental and growth management law at Florida Atlantic University. She has lived in Boca Raton since 1972.

**JOSEPH F. POKLEMBIA**

Associate  
Attorney-at-Law

Mr. Poklemba's practice with Burke, Weaver & Prell includes land use and environmental law, with an emphasis on local government litigation and consulting. Mr. Poklemba was awarded a master's degree in business administration from Drexel University in 1985 and a law degree from Nova Southeastern University in 1995. He graduated with a B.A. in political science/economics from St. Joseph's University. Mr. Poklemba has been a member of the Florida Bar since 1995.

Mr. Poklemba's experience ranges from representing local governments as general counsel on special matters, i.e., forfeitures, foreclosures, special assessments, zoning and land use, to general civil litigation. He has special expertise in land use consulting and litigation involving zoning and land use regulations. Mr. Poklemba has assisted in defending local government land use decisions and laws in state courts. Mr. Poklemba has also assisted in the preparation of appeals in land use cases.

Among his professional activities, Mr. Poklemba is Vice-Chair of the Palm Beach County Bar Association's Land Use Law, Environmental Law and Eminent Domain Committee. Mr. Poklemba is also a member of the Treasure Coast Section of the American Planning Association.

Mr. Poklemba is a member of the American Bar Association (including the state and local government law section), the Florida Bar (including environmental and land use law section), and the Palm Beach County Bar Association (including the land use/environmental law and eminent domain committee). He is also a member of all of the federal court bars in the State of Florida (Northern, Middle, Southern Districts) and the 11<sup>th</sup> Circuit Court of Appeals.